

Questions and Answers Regarding IV-D Services for Domestic Relations Cases

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Introduction

This *Question and Answers Regarding Domestic Relations Cases* policy should be read in its entirety and in conjunction with IV-D Memorandum 2016-003 and Exhibit 2016-003E2 to ensure that IV-D staff have a full understanding of the complex issues presented. This policy further clarifies existing policy and does not introduce new policy or procedures. It also clarifies for IV-D staff the federal requirements regarding IV-D applications, opening a IV-D case, and order establishment timeframes.

The Office of Child Support (OCS) acknowledges that a gap exists in the process of filing a domestic relations case and completing an application for IV-D services. OCS will continue to work with the State Court Administrative Office (SCAO), the federal Office of Child Support Enforcement (OCSE), and other program partners to find

solutions that will provide IV-D services effectively and efficiently to families that are part of a domestic relations filing.

Distinguishing Between the Domestic Relations Court Case and the IV-D Case

1. Are a domestic relations court case and a IV-D case the same thing?

No. A domestic relations court case is not the same thing as a IV-D case. Just because a party files a domestic relations action does not mean that the domestic relations court case will have IV-D action included.

A domestic relations court case is defined as any litigation involving divorce, paternity, custody, parenting time, or support.

A IV-D case is a case that is eligible for services under Title IV-D of the Social Security Act. These services include paternity and/or order establishment, and enforcement.

To assist families in determining whether they should apply for IV-D services, Friend of the Court (FOC) staff must provide access to the publication *Understanding Child Support: A Handbook for Parents* (DHS-Pub 748)¹ to every party who requests a IV-D application.² Parties can use this information to make an educated decision as to whether or not they want to open a IV-D case or **when** to open a IV-D case.

IV-D Application

2. Can a IV-D office use the Verified Statement as a IV-D application?

The current approach, as OCS understands it, is that the Verified Statement does not include the required notices and disclaimers, including a provision to provide access to the DHS-Pub 748 (either in paper copy or online). Federal regulations require IV-D staff (including FOC staff) to provide information about the child support program to applicants for IV-D services.

3. What must be included on a IV-D application?

The IV-D application must include all information currently displayed on the *IV-D Child Support Services Application/Referral* (DHS-1201), including all notices and disclaimers. OCS highly recommends the use of the DHS-1201 or its electronic version, the e1201.

IV-D applications must be available to all members of the public. Consequently, OCS has carefully designed the DHS-1201 so that this single document can be used

¹ The DHS-Pub 748 provides applicants information about the child support program. FOC offices can order the DHS-Pub 748 by completing the *Office of Child Support Publication Order List* (DHS-1454). FOC staff and the general public use the DHS-1454 to order OCS publications free of charge. The DHS-Pub 748 is also available online at www.michigan.gov/ChildSupport in the [Popular Forms](#) section. IV-D staff may notify customers of its availability online.

² 45 Code of Federal Regulations (CFR) 303.2(a)(2)

by a wide range of applicants in a wide range of situations. It obtains the necessary information to open a IV-D case and initiate IV-D case activity, and it provides federally required information. This single form can be used by:

- Custodial parties (CPs);
- Non-custodial parents (NCPs);
- Parents who are married but seeking or considering a domestic relations case;
- Divorced parents;
- Unmarried mothers;
- Unmarried fathers;
- Nonparent caretakers, whether related or not related to the child(ren);
- Victims of domestic violence;
- Recipients of any form of public assistance; and
- Individuals not on public assistance.

The DHS-1201 is used to solicit information about a parent of a child, whether that parent is the mother, a legal father, or a presumed or alleged father. If an applicant wishes to pursue child support from both the mother *and* the father, (s)he must complete two DHS-1201s, one on each parent.

If IV-D staff have suggestions for improving the DHS-1201, they can submit them to OCS.

4. What must be included *with* a IV-D application?

Federal law requires that the IV-D program provide applicants with their rights and responsibilities. OCS has developed the DHS-Pub 748 to serve this purpose. IV-D staff must provide access to the DHS-Pub 748 when providing the IV-D application to prospective applicants. In fact, the DHS-1201, the *Application for IV-D Child Support Services (For Privately Filed Domestic Relations Cases Only)* (DHS-1201D), and the e1201 indicate that by signing the application, the applicant acknowledges receipt of the DHS-Pub 748 in paper copy or access to it online.

The DHS-Pub 748 helps applicants determine whether completing the IV-D application is right for them. Other questions/answers in this document highlight why applicants must be well-informed about the services they will receive.

Options for Obtaining IV-D Applications for Domestic Relations Case Filers

5. A IV-D office is considering not soliciting IV-D applications at the time of a domestic relations case filing. Is this appropriate?

It is not a requirement to solicit or highlight IV-D services to any particular applicant pool, including domestic relations cases.

However, under Michigan's IV-D State Plan, the IV-D program is obligated to publicize its services. Marketing of IV-D services can take many forms and approaches. Because of the IV-D program's federal funding structure, its generally free services, and its ability to establish paternity, support orders, and enforcement of orders for the benefit of children and families, IV-D staff should ensure that parents and custodians with a need for IV-D services are aware of those services.

- 6. A IV-D office is considering soliciting IV-D applications at the time a domestic relations case is final. That way, staff can avoid interrupting domestic relations case proceedings and having cases in MiCSES³ without orders. Is this appropriate?**

Yes.

- 7. A IV-D office is considering soliciting IV-D applications at the time a domestic relations case is filed but asking court clerk staff – who are not IV-D staff – to hold the application in their offices until the domestic relations case is final. Is this appropriate?**

No, court clerk staff must not hold a IV-D application for processing. If IV-D staff solicit applications, they must establish procedures to ensure that applicants know where to immediately submit the application for IV-D case opening without delay.

- 8. A IV-D office is considering soliciting IV-D applications when a domestic relations case is filed but not opening a IV-D case until after the domestic relations case is final. Could FOC staff alert the applicant of this on the application or let the applicant choose that approach?**

No. If FOC staff solicit applications, they must establish procedures that ensure those applications are immediately processed and services are provided. Federal regulations do not permit applicants to dictate the timing of IV-D case opening.

Opening IV-D Cases for Applicants Who Have Filed a Domestic Relations Case

- 9. Must FOC staff open a IV-D case for parents who have filed a domestic relations case?**

Yes, if the IV-D office has received a IV-D application. Additionally, FOC staff must notify the customer about the DHS-Pub 748 and its access either in paper copy or online.

³ MiCSES is the Michigan Child Support Enforcement System.

10. What is the timeframe for opening a IV-D case when a domestic relations action has been filed?

FOC staff must open the case as a IV-D case in MiCSES within 20 calendar days of receiving the IV-D application in their office.

11. When parents are proceeding with a domestic relations case, it seems more appropriate to await the outcome of the domestic relations case before opening a IV-D case. Can FOC staff wait to open the IV-D case until the domestic relations case is final?

No. FOC staff must open a IV-D case upon receiving a IV-D application within 20 calendar days without regard to the applicant's situation, including that the parent has filed or is a party to a domestic relations case. (Ref: Question #13 and others for related discussion.)

12. When IV-D staff open a IV-D case in a domestic relations case action, will it contribute poorly to the county's support order percentage until a child support order has been entered?

Yes. Until a support order is entered in MiCSES, the IV-D program's support order percentage will reflect that IV-D case without an order. Therefore, FOC staff must determine when it is appropriate to solicit IV-D services. FOC staff should help applicants understand IV-D services, and advise them on what IV-D services are available in a domestic relations filing.

As part of IV-D services, federal regulations require the IV-D program to attempt to obtain a child and medical support order on IV-D cases that do not have orders. If that is not the applicant's intended result and the parent would rather wait until the child support order (temporary or final) is entered, IV-D staff may advise the parent not to request IV-D services or complete an application until the child support order is entered.

Providing IV-D Services for Applicants Who Have Filed a Domestic Relations Case

13. What is the expected IV-D case activity on an open IV-D case in which the parent is proceeding with a domestic relations case?

By requesting and applying for IV-D services, the parent on the domestic relations case is requesting full IV-D services. Receipt of the IV-D application requires IV-D staff to locate parents and their assets, establish child and medical support orders, and enforce child and medical support obligations.

Although FOC offices do not initiate the establishment of child and medical support orders, an applicant of IV-D services is entitled to establishment action. Therefore,

marketing IV-D services at the time of the domestic relations filing may not be appropriate if there are no IV-D services to provide the customer at that time.

If it is not the applicant's intended outcome and the parent would rather wait until the child support order (temporary or final) is entered, the parent should not request IV-D services or complete an application until the child support order is entered.

14. Since a child support obligation will be decided as part of the domestic relations case proceeding, what actions must FOC staff take to get a support order on the open IV-D case?

This can be a challenging situation.

Until a support order is entered on the open IV-D case, it will reflect poorly in the support order percentage. And, failure to take timely IV-D action on the case (e.g., location services) can also result in audit findings.⁴

Until a support order is entered on the open IV-D case, there may be a reduction in the support order percentage for that county.

Consequently, FOC staff must carefully determine the best course of action given the likelihood of a timely child support order without specific IV-D case action. In other words, if a child support determination by the court in the divorce proceeding (e.g., a temporary support order or a final decree) is imminent, taking specific IV-D action may be counterproductive and disruptive.

IV-D staff may choose to not take any action and await service of process of the responding parent in the domestic relations case or await the establishment of a support order. However, as stated above, they will risk an audit finding and a negative support order percentage. IV-D staff may be confronted with an applicant who expects IV-D child and medical support action sooner while the domestic relations case proceeds. These risks may be outweighed by the logical decision to await a soon-to-be-entered support order.

Scenario for Question 15:

In some FOC offices, staff wait to take any action (whether IV-D or non-IV-D) on the case until the responding party to the domestic relations case has been served with the complaint. This helps ensure the responding parent doesn't first hear from the FOC before receiving the domestic relations case paperwork. Once the responding parent is served, *then* FOC staff take steps to recommend parenting time and calculate child support for submittal to the court.

⁴ Ref: the [Michigan IV-D Child Support Manual](#) and other OCS-published materials for required timeframes and expected support order establishment performance.

15. If FOC staff open a IV-D case within the 20-day timeframe, is it appropriate to await service of process on the responding parent before taking any IV-D action?

Yes, it may be appropriate to await the outcome of certain steps within the domestic relations case proceeding before taking any IV-D action. However, there is a time limit to how long one should wait before the office will confront possible IV-D audit and performance findings. Federal regulations⁵ and performance expectations do not assume or expect IV-D staff to suspend IV-D activity until after successful service of process in a domestic relations case.

16. If FOC staff calculate and recommend child support amounts and assist in the court's establishment of a child and medical support obligation in a domestic relations proceeding on an open IV-D case, are those activities IV-D reimbursable?

Yes, activities performed by IV-D staff to assist in the establishment of a child and medical support order on an open IV-D case (opened as a result of public assistance or a voluntary IV-D application) are reimbursable.

17. A parent (or his/her attorney) who has filed for a domestic relations case may not want a temporary child support order and may not want IV-D staff to take any IV-D action, even if domestic relations case proceedings are stalled. What should be done in this open IV-D case?

Applying for IV-D services is voluntary, and marketing IV-D services to the parent at the time of the domestic relations filing may not be appropriate in this circumstance. However, if the parent completes a IV-D application, then (s)he must understand by receiving access to the DHS-Pub 748 (either in paper copy or online) that action will be taken.

Additionally, the parent in this circumstance may request closure of the IV-D case if (s)he no longer requires IV-D services.

18. Some parents who file a domestic relations case do not follow through with the domestic relations action. They do not successfully serve the other parent, or they reunite with the other parent. If IV-D staff have opened a IV-D case, what is the expected action?

IV-D action must proceed.

If the responding parent in a domestic relations proceeding cannot be served, then IV-D staff must proceed to establish a child and medical support order since a domestic relations case is likely not imminent. Depending on how each county

⁵ 45 CFR 303.2(b)

operates, this may require transferring the case to the Prosecuting Attorney's office for establishment of a child and medical support order.

If the parents reunite after submitting a IV-D application, the applicant must request IV-D case closure. FOC staff cannot close the IV-D case under the assumption that the applicant no longer wants services. The applicant must specifically request closure. If the applicant fails to do so, IV-D staff will proceed with IV-D action. If the applicant fails to cooperate or assist with the IV-D case, which may be likely given the situation, then staff may begin steps to close the case pursuant to IV-D policy.

A IV-D case can be closed only for reasons established in OCS-published materials.

Scenario for Question 19:

A IV-D case was opened for a couple who had filed a domestic relations case. However, the domestic relations case did not progress, and the case was closed. Likewise, the IV-D applicant failed to cooperate with the IV-D program, and the IV-D case was closed. Now, the parents have refiled a domestic relations case.

- 19. If a IV-D case has been closed in a domestic relations case, must FOC staff obtain a new IV-D application to reopen the IV-D case? What date should the IV-D worker enter in the *App Returned Date* field on the *Case Member Details (CASE)* screen?**

FOC staff can reopen closed IV-D cases only upon receiving a new application for IV-D services. On the CASE screen, FOC staff will enter the date the new application was received, update the signed application field to "yes," and then reopen the case. Recording the date the application is returned to the office is key to meeting federal timeframes.

Providing IV-D Services for Married Applicants Who Live Apart/No Divorce

- 20. Some parents live apart but are not *legally* separated and do not intend to file for divorce. Should IV-D staff provide IV-D services to these parents?**

Yes, if the IV-D office has received a IV-D application.

- 21. Some parents are not *legally* separated and do not intend to file for divorce, but they live together. What IV-D services should staff provide these parents?**

If a IV-D application has been received, full IV-D services must be provided. An applicant may choose to apply for IV-D services in situations where the parents live together in the same house. There is no requirement that parents must live separately to receive IV-D services.

Family Violence Situations

Scenario for Questions 22-24:

When domestic violence is an issue for a parent who is filing a domestic relations case, (s)he deserves careful approaches to his/her domestic relations case and filing. In some situations, FOC staff are concerned that MiCSES or other IV-D-program-initiated action may incite complications or violence for the parents.

22. If a parent filing a domestic relations case has an issue with domestic violence, what will happen with the IV-D case?

IV-D action will proceed, but FOC staff must do so in a safe way for the applicant. The DHS-1201 asks the parent if (s)he believes that disclosure of his/her address and information could result in physical or emotional harm to the applicant or the child.⁶ Upon receipt of an application in which the applicant says yes, pursuant to the *Combined IV-D Policy Manual* (4DM 135), staff must record this in MiCSES following family violence indicator procedures.

23. A victim of domestic violence may not want the perpetrator to even know that (s)he initiated child support case establishment or activity. How do FOC staff protect the victim in this situation?

Information contained in DHS-Pub 748 will help the applicant understand the expected actions that will be taken on the case.

The IV-D program, through its policies and procedures, is obligated to protect victims of family violence by concealing their location and confidential information. This helps ensure that victims of domestic violence can benefit from IV-D services and obtain financial support for the children they care for. However, IV-D staff cannot protect them from even the perpetrator's knowledge that they have requested services. IV-D services are voluntary, and victims may choose to decline IV-D services, given their situation.

Families receiving public assistance who are required to open IV-D cases and cooperate with the child support program but are victims of domestic violence may claim "good cause" so that perpetrators are never contacted. (Ref: the [*Michigan IV-D Child Support Manual*, Section 2.15, "Cooperation/Noncooperation/Good Cause."](#))

⁶ Ref: the "IV-D Application" section earlier in this document for IV-D application requirements.

24. When a victim of domestic violence opens a child support case, how do IV-D staff protect that victim? How do IV-D staff ensure MiCSES does not issue inappropriate letters or disclose the victim's location?

Various sections of the *Michigan IV-D Child Support Manual*, other IV-D policies, and system documentation highlight these protections and how to enable them. A listing of these materials is referenced at the end of [Action Transmittal \(AT\) 2009-017, REVISED: Family Violence Indicator \(FVI\) Enhancement](#).

If IV-D staff are aware of gaps or possible gaps in these protections, they must immediately file tickets with the MiCSES Help Desk. Family violence functionality in MiCSES is of grave importance.

IV-D Case-Opening Letters

25. Does MiCSES issue IV-D case-opening letters to the NCP?

At this time, MiCSES does not send such a letter to the NCP upon the first IV-D case opening. However, this could happen in the future based on new policy or identified business needs. As long as IV-D staff have properly offered IV-D services and documented, recorded and considered family violence, such a letter could still be appropriate.

MiCSES **does** send a case-reopening letter to both parties after a IV-D case has been opened, closed and then reopened (forms CLO_REOSS, CLO_REOPA, and CLO_REOFOC).

26. As described in Question #15, some FOC offices await any action on an open IV-D case until successful service of process occurs in a domestic relations case proceeding. How can the office be assured that the NCP will not be contacted by the IV-D program?

Although MiCSES does not issue initial case-opening letters to the NCP at this time, the IV-D program cannot ensure that the NCP will not be aware of the IV-D case opening in some way. Federal regulations do not require anonymity pending successful service of process in a domestic relations case. FOC staff may inform the applicant of this at the time of application.

The DHS-Pub 748 explains the actions that will be taken on the case when an applicant opens a IV-D case. If a parent wants to ensure that the IV-D program is not the first contact with the responding parent, (s)he should choose not to complete a IV-D application until such time that (s)he is ready.

Supporting Documentation and Reference Material

Supporting Documentation

45 CFR 302.30
45 CFR 303.2
45 CFR 303.2(a)(2)
45 CFR 303.2(b)
45 CFR 303.102(d)
45 CFR 303.31(c)
45 CFR 303.72

Section 454(6)(A) of the Social Security Act
Section 454(26) of the Social Security Act

Reference Material

AT 2009-017, **REVISED:** *Family Violence Indicator (FVI) Enhancement*

Combined IV-D Policy Manual 4DM 135

Michigan IV-D Child Support Manual:

Section 1.10, "Confidentiality/Security"

Section 2.05, "Referrals and Applications"

Section 2.15, "Cooperation/Noncooperation/Good Cause"

MiCSES Customer Information Guide: Family Violence

MiCSES Customer Information Guide: Family Violence (BATCH_FAMV) Process